

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: UNITYPOINT CLINIC FAMILY MEDICINE AT HUXLEY f/k/a HUXLEY FAMILY PHYSICIANS	DOCKET NO. FCU-2013-0004
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**ORDER REGARDING FIFTH TELEPHONE PREHEARING CONFERENCE
AND REQUIRING FILING**

(Issued September 22, 2014)

A fifth telephone prehearing conference was held in this case on September 11, 2014. The Consumer Advocate was represented by its attorney, Mr. Craig Graziano. Qwest Communications Company d/b/a CenturyLink QCC (CenturyLink) was represented by its attorney, Ms. Becky Owenson Kilpatrick. Huxley Communications Cooperative (Huxley Communications) was represented by its General Manager, Mr. Gary Clark. Bluetone Communications, Inc. (Bluetone), was represented by its attorney, Mr. Bret Dublinske. Ms. Gina Manzano, Director, Wholesale Account Support, was also on the call for Bluetone. Board staff member Ms. Tara Ganpat-Puffett was also on the call.

In a response filed with the Utilities Board (Board) on August 18, 2014, the Consumer Advocate reported that Ms. Kelly Brozek, Administrator of UnityPoint Clinic Family Medicine at Huxley f/k/a Huxley Family Physicians (the Huxley Clinic), advised the Consumer Advocate that the Huxley Clinic has not experienced any recent call completion difficulties. At the prehearing conference, the Consumer

Advocate reported that the Huxley Clinic had one call that could not be completed over a month ago but the cause is unknown and there is no way to test for the cause of the problem.

The Consumer Advocate has received discovery responses from CenturyLink in this and the other call completion dockets. It has no outstanding discovery with other parties in this case, and has some outstanding discovery with a couple of other parties in other cases.

On July 29, CenturyLink filed an informational filing in this and other Iowa rural call completion dockets concerning CenturyLink's intent to adopt the Federal Communication Commission's (FCC) Safe Harbor provisions in the FCC's Rural Call Completion Docket.¹ The Consumer Advocate has reviewed this filing and has had preliminary discussions with CenturyLink about CenturyLink's filing and plans. The Consumer Advocate would like more information about CenturyLink's responses to the FCC's call completion investigation of CenturyLink. The two parties need time for further discussion of these topics. The Consumer Advocate believes CenturyLink's FCC filing addresses a core concern and is an encouraging and promising development, but the timing of implementation is unclear at this time.

At the prehearing conference, the parties discussed the appropriate procedure for the case going forward. The Consumer Advocate thinks the appropriate procedural schedule in this case should mirror the procedural schedule set in Docket No. FCU-2013-0007, *Complaint of Carolyn Frahm (Frahm)*. In addition, the

¹ *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Final Rule, ¶¶ 85-100 (78 Federal Register 76218, December 17, 2013); 47 CFR § 64.2107.

Consumer Advocate noted a prehearing conference in Docket No. FCU-2012-0019, *Rehabilitation Center of Allison (Allison)* was scheduled for the following Monday, at which the procedural schedule in that case would be discussed. The Consumer Advocate considers the *Allison* case to be the lead call completion case in the group of cases involving CenturyLink, and recommended that the procedural schedule in this case be the same as that set in the *Allison* case. Therefore, the Consumer Advocate recommended a status report be due in this case in 30 days after the procedural schedule in the *Allison* case is known. The Consumer Advocate pointed out that requiring such a report was recently discussed and approved in Docket No. FCU-2013-0009, *Complaint of Douglas Pals (Pals)*. CenturyLink, Huxley Communications, and Bluetone agreed the Consumer Advocate's suggestion was reasonable. Therefore, the recommendation to require the parties to file a status report in this docket in 30 days was granted at the prehearing conference.

Since it appears the partial procedural schedule to be considered in this case will probably involve the filing of reports as discussed in the *Frahm*, *Allison*, and *Pals* cases, the undersigned administrative law judge provides the following guidance to the parties regarding what the report or reports should include and what an effective, proactive, long-term solution to the call completion problems experienced by CenturyLink's Iowa customers needs to include.

The parties may propose whether they think it would best to file a joint report, or whether the Consumer Advocate and the carriers should each file their own report.

Any information provided in the report or reports must be supported by an affidavit of the entity providing the information.

The parties' report or reports in this case must include all the information the parties have regarding what happened in this case. To the extent the parties have the information, the reports must provide answers to the questions posed by the Board in its "Order Granting Request for Formal Proceeding and Assigning to Administrative Law Judge," issued on May 23, 2013. The reports must provide the information the parties have to assist the Board in understanding what caused the Huxley Clinic's problems at issue in this case, what was done to correct the problems in this case, why the corrections solved the problems, and what was done or still needs to be done to provide a long-term solution to the problems at issue in this case. If the parties are unable to provide some of the answers to these questions, or do not have the information needed to provide the answers, they should include an explanation of why they cannot provide the answers or do not have the information. If the Huxley Clinic has experienced any further call completion problems since the date of the scheduling order to be issued in the future, the reports must include information about the problems and what was done to resolve them. The report or reports should also include information regarding which telephone carriers involved in this case will need to implement effective, preventative, long-term solutions to prevent call completion problems for Iowa customers. One of these carriers, although not necessarily the only carrier, is CenturyLink.

When CenturyLink develops its Iowa solutions to prevent its Iowa customers from experiencing call completion problems in the future, the solutions may be based on the work CenturyLink is doing on a national basis pursuant to its commitments to the FCC. However, CenturyLink's Iowa solutions must include commitments by CenturyLink to the Board as to the actions it will take to prevent call completion problems in Iowa. CenturyLink must implement effective, preventative, long-term solutions so its Iowa customers do not continue to experience call completion problems as they have in the past. CenturyLink's solutions must prevent such problems in the first place, and may not rely on a system where customers must first experience a problem and report it to the Board or their telephone carrier in order to have the problem corrected after the fact. However, the Board recognizes that even after these solutions have been implemented, an occasional call completion problem may occur. Therefore, part of CenturyLink's solutions will need to be the establishment of better procedures, including providing information to customers on how to most effectively report call completion problems, so customers may report and have their call completion problems addressed much more quickly and effectively than has occurred in the past. If it is possible, it would be ideal for CenturyLink and the Consumer Advocate to agree on what CenturyLink's Iowa solutions should include.

Procedurally, the undersigned administrative law judge believes that CenturyLink's Iowa solutions would not be included in the report or reports on the case, but would instead be provided in a separate filing by CenturyLink. However,

the parties are free to propose a different procedure in their status report if they can agree on what the procedure should be.

IT IS THEREFORE ORDERED:

On or before October 13, 2014, the parties must file a status report. The report must inform the Board whether the Huxley Clinic has experienced any call or fax completion problems since the date of this order, must inform the Board of the status of the parties' discovery and investigation, and must provide three mutually agreeable dates and times for a sixth telephone prehearing conference to discuss the status of the case, the partial procedural schedule for the case, and whether the Huxley Clinic has experienced any further call or fax completion problems. The status report must include a proposed partial procedural schedule, and state which parties agree that the proposed partial procedural schedule is reasonable and should be adopted for this docket.

UTILITIES BOARD

/s/ Amy L. Christensen

Amy L. Christensen
Administrative Law Judge

ATTEST

/s/ Joan Conrad
Executive Secretary

Dated at Des Moines, Iowa, this 22nd day of September 2014.